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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,918	12/29/2005	David Roberts McMurtry	122070	7252
25944 7590 05/16/2008 OLIFF & BERRIDGE, PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850				
EXAMINER				
BRAINARD, TIMOTHY A				
ART UNIT		PAPER NUMBER		
3662				
MAIL DATE		DELIVERY MODE		
05/16/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/518,918

Applicant(s)

MCMURTRY ET AL.

Examiner

TIMOTHY A. BRAINARD

Art Unit

3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/26/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-42, 44 and 45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-42 and 44-45 is/are rejected.
- 7) ☐ Claim(s) 45 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 45 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 45 depends on cancelled claim 43. Claim 45 will be examined as being dependent on claim 44.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 26, 27, 29-33, 35, are 41-45 rejected under 35 U.S.C. 102(b) as being anticipated by Beckworth Jr (US 4939678). Beckworth (claim 26, 43, and 44) teaches an apparatus for measuring the straightness of a plane and one of pitch and yaw of a body with respect to another body (col 5, line 51 to col 6, line 8) comprising a transmitter unit on the first body, an optic unit on the second body, the transmitter directing a beam at the optical unit, at least one detector detecting at least two or more light beams (fig 5 and col 5, lines 21-42), the detection of two or more light beams is substantially the same, the displacement of the two or more light beams one the detectors enables the

straightness error in one plane, pitch or yaw relative to the second body, orienting the transmitter unit along two axes of the base unit and measuring the lateral displacement of the light beam on the detector to determine the squareness of those axes (col 5, line 51 to col 6, line 8), (claim 44) adjust the position of the transmitter unit of the second body to maintain the light beam of the detector during relative movement (col 8, line 12-33 and col 3, lines 15-43), (claim 27) displacement of the two or more light beams incident on the detector enables measurement on the roll error (fig 5 and col 5, lines 51 to col 6, lined 6), (claim 29) three light beams are detected such that pitch, roll, yaw, or straightness errors in two planes are determined (fig 5 and col 5, lines 51 to col 6, lined 6), (claim 30) optic unit is provided with two or more optical elements to reflect two or more light beams (fig 5 and col 8), (claims 31-33) the optical elements are retro reflectors (col 8), (claim 32) the retro reflectors are positioned side-by-side in the optical unit and a third retro reflector is positioned behind the first and second retro reflectors (fig 5 and col 8), (claim 35) the two or more light beams remain substantially parallel (fig 5), (claims 41 and 42) the optical elements are mounted on a thermally stabilized bar to reduce movement of the optical element, (claim 45) the transmitter unit is mounted on an adjustable base unit on the first body where the position of the transmitter unit by adjusting the base unit (col 1, lines 22-36).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beckworth (US 4939678). Beckworth does not teach a common equation used to determine different deviations. It is expected that a common equation would be used to determine different deviations.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beckworth as applied to claim 26 above, and further in view of Ross III et al (US 2002/0122172). Ross III teaches one detector being a pixilated image sensor. It would have been obvious to modify Beckworth to include one detector being a pixilated image sensor because it is one of multiple design choices with no new or unexpected result.

Claim 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beckworth as applied to claim 26 above, and further in view of Kilibjian (US 5335548). Kilibjian teaches two light beams transmitted from the light source wherein the coherence pattern of the detected beams and the beams are intensity modulated to cause frequency variation to reduce the coherence pattern of the detected beams (abs). It would have been obvious to modify Beckworth to include two light beams transmitted from the light source wherein the coherence pattern of the detected beams and the beams are intensity modulated to cause frequency variation to reduce the coherence pattern of the detected beams because each is one of multiple design choices with no new or unexpected result.

Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beckworth in view of Kilibjian as applied to claim 38 above, and further in view of Inada

(US 4999618). Inada teaches two light beams intensity modulated by turning the light source on and off (col 2, lines 50-55). It would have been obvious to modify Beckworth in view of Kilijian to include two light beams intensity modulated by turning the light source on and off because it is one of multiple design choices with no new or unexpected result.

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beckworth as applied to claim 26 above, and further in view of Qu (US 6343228). Qu teaches one light beam where an optical fiber separates the light source from the start of the projected light beam. It would have been obvious to modify Beckworth to include one light beam where an optical fiber separates the light source from the start of the projected light beam because it is one of multiple design choices with no new or unexpected results.

Response to Arguments

1. Applicant's arguments, see Remarks, filed 2/26/2008, with respect to McMurty have been fully considered and are persuasive. The 102(e) of 8/29/2007 has been withdrawn.
2. Applicant's arguments filed 2/26/2008 with respect to Beckworth have been fully considered but they are not persuasive. Applicant argues
3. 1) Beckworth does not does not teach the detection methods being substantially the same.
4. Response: detectors 82, 84, 102, 104, and 118 are all photo-sensors and operate using substantially the same method.

5. 2) measuring deviation in the movement of a first body with respect to a second body and includes the steps of determining the position of the light beam on the detector and adjusting at least one of the position of the transmitter unit and the movement vector of the second body in order to maintain the light beam on the detector during relative movement of the first and second bodies.
6. Response: As indicated on col 3, lines 19-25 of Beckworth monitoring the position of the first element in the prescribed movement direction would require maintaining the light beams on the detector during the movement and determining the position.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMOTHY A. BRAINARD whose telephone number is (571) 272-2132. The examiner can normally be reached on Monday - Friday 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on (571) 272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TAB

/Thomas H. Tarcza/

Supervisory Patent Examiner, Art Unit 3662